

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

<i>In re</i>	§	
	§	CASE NO. 20-34077
Everest Real Estate Investments, LLP	§	(Chapter 11)
	§	
<i>Debtor</i>	§	

**UNOPPOSED MOTION FOR ENTRY OF AN AGREED ORDER GRANTING
MOTION FOR RELIEF FROM AUTOMATIC STAY**

This is a motion for relief from the automatic stay. If it is granted, the movant may act outside of the bankruptcy process. If you do not want the stay lifted, immediately contact the moving party to settle. If you cannot settle, you must file a response and send a copy to the moving party at least 7 days before the hearing. If you cannot settle, you must attend the hearing. Evidence may be offered at the hearing and the court may rule.

Represented parties should act through their attorney.

**There will be a hearing on this matter on April 6, 2021 at 10:00 a.m at 515 Rusk
Houston, TX 77002.**

PRELIMINARY STATEMENT

1. Movants seek relief from the automatic stay under section 362 of title 11 of the United States Code (the “Bankruptcy Code”), to the extent the same are applicable, to prosecute a prepetition civil action (the “State Court Action”) against one or more business organizations which are presently, or were formerly, owned or controlled by Everest Real Estate Investments, LLP d/b/a Icon Hospital.

2. Movant, Lisa Ayers, is the representative of the estate of Ronald Bruce Long and Victoria Long. The case number is 2019-71007 pending in the 189th District Court of Harris County.

3. Movant's claims in the State Court Action relate to alleged medical malpractice resulting in the death of Adam Long in late September 2017. The crux of the petition is that dialysis was incorrectly administered to the late Mr. Long at Icon Hospital by one Victor Cortez- an employee of Mobile Renal Care who was contracted to provide dialysis services to Icon. In turn, Icon Hospital is a d/b/a of Everest Real Estate Investments, LLC.

4. The Movant seeks relief from the automatic stay to proceed against this hospital- and to recover damages under one or more policies of insurance- carried by this organization.

5. In other words, the debtor is an indispensable party – even if only a nominal party so that the insurance can be accessed.

JURISDICTION

6. The Court has jurisdiction to consider this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding as provided by 28 U.S.C. § 157(b). Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

NECESSITY FOR RELIEF FROM STAY

7. Everest Real Estate Investments filed this petition on August 14, 2020. Proofs of claim were due December 21, 2020. On December 30, 2020, the parties in the State Court Action filed an Agreed Motion for Continuance and Entry of Amended Docket Control Order noting that a bankruptcy petition had been filed and that the automatic stay was in place. Judge Dollinger of the 189th District Court granted this motion on January 5, 2021, and a new docket control order was entered soon thereafter.

8. The automatic stay provided by 11 U.S.C. §362, remains in effect to prevent the prosecution of the State Court Action as provided by 11 U.S.C. §362(c)(2)(C).

9. Movant seeks an order terminating the stay to prosecute the State Court Action to a final conclusion but seek no recovery from the property of Everest Real Estate Investments, LLP. Rather, such recovery would be limited to insurance proceeds.

RELIEF SOUGHT

10. Movant requests relief from the automatic stay provided by 11 U.S.C. §§362, 1301, to the extent such provisions are applicable, for the purpose of being able to proceed with the State Court Action and without any recovery against the Debtor or the Debtor's property. Any satisfaction of the claims will be from the available insurance.

Respectfully Submitted,

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CERTIFICATE OF CONFERENCE

On March 9, 2021, I conferred with Alan Gerger who is UN-OPPOSED.

/s/ Seth Kretzer
Seth Kretzer

CERTIFICATE OF SERVICE

This is to certify that on this, the 9th day of March 2021, a true and correct copy of the above and foregoing instrument was served electronically through the CM/ECF system upon all counsel of record:

Alan Sanford Gerger
The Gerger Law Firm PLLC

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/s/ Seth Kretzer
Seth Kretzer